



DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS-R4-ES-2022-0046; FXES11130400000EA-123-FF04EF1000]

Receipt of Incidental Take Permit Application and Proposed Habitat

Conservation Plan for the Alabama Beach Mouse, Baldwin County, AL;

Categorical Exclusion

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; request for comment and information.

SUMMARY: We, the Fish and Wildlife Service (Service), announce receipt of an application from Brett Real Estate Robinson Development Company, Inc. (applicant) for an incidental take permit (ITP) under the Endangered Species Act. The applicant requests the ITP to take the federally listed Alabama beach mouse incidental to construction in the City of Gulf Shores, Baldwin County, Alabama. We request public comment on the application, which includes the applicant's proposed habitat conservation plan (HCP), and the Service's preliminary determination that this HCP qualifies as low effect, categorically excluded under the National Environmental Policy Act. To make this determination, we used our environmental action statement and low-effect screening form, both of which are also available for public review.

DATES: We must receive your written comments on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

ADDRESSES: *Obtaining Documents:* You may obtain copies of the documents online in Docket No. FWS-R4-ES-2022-0046 at <https://www.regulations.gov>.

Submitting Comments: If you wish to submit comments on any of the documents, you may do so in writing by any of the following methods:

- *Online:* <https://www.regulations.gov>. Follow the instructions for

submitting comments on Docket No. FWS-R4-ES-2022-0046.

- *U.S. mail:* Public Comments Processing, Attn: Docket No. FWS-R4-ES-2022-0046; U.S. Fish and Wildlife Service, MS: PRB/3W, 5275 Leesburg Pike, Falls Church, VA 22041–3803.

FOR FURTHER INFORMATION CONTACT: Mr. William Lynn, Project Manager, by telephone at 251-441-5868 or via email at william_lynn@fws.gov. Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services.

Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION: We, the Fish and Wildlife Service (Service), announce receipt of an application from Brett Real Estate Robinson Development Company, Inc. (applicant) for an incidental take permit (ITP) under the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*). The applicant requests the ITP to take the federally listed Alabama beach mouse (*Peromyscus polionotus ammobates*) (ABM) incidental to the construction of a single condominium tower with amenities (project) in the City of Gulf Shores, Baldwin County, Alabama. We request public comment on the application, which includes the applicant's proposed habitat conservation plan (HCP), and the Service's preliminary determination that this HCP qualifies as low-effect, categorically excluded, under the National Environmental Policy Act (NEPA; 42 U.S.C. 4231 *et seq.*). To make this determination, we used our environmental action statement and low-effect screening form, both of which are also available for public review.

Project

The applicant requests a 50-year ITP to take ABM by converting approximately 0.061 acres (ac) of occupied ABM foraging and sheltering habitat incidental to the

construction of a single condominium tower, with 110 beachfront units and amenities, on 0.84 ac of a 3.18-ac parcel in Baldwin County, Alabama. The parcel contains 0.713 ac of ABM-occupied suitable habitat.

The parcel was previously utilized in 2004 and 2005 for stockpiling of Hurricane(s) Ivan and Katrina debris. Most of the larger hurricane debris has been removed. However, the northern part of the parcel still contains considerable concrete and construction debris, which precludes the natural dune repair process.

As mitigation for incidental take of the ABM, the applicant proposes to preserve and enhance the remaining 0.652 ac of ABM-occupied habitat on the parcel.

Additionally, the applicant will restore a sandy area (0.073 ac) on the parcel to vegetated sand dunes. Outside the development footprint, the applicant will landscape 0.853 ac with native vegetation that may support ABM. After development is completed, the parcel will contain 2.34 ac of native habitat (0.853 ac open beach, 0.725 ac ABM habitat, and 0.762 ac native landscaping), which will be permanently managed as coastal dune habitat for the ABM. In addition, standard mitigation and minimization measures will be implemented on the parcel, including installing sea turtle-friendly lighting and tinted windows, landscaping with native vegetation, enhancing the frontal dune area, constructing a concrete driveway that will not spread widely as a result of storm surge, utilizing refuse-control measures during construction that also would be required of future residents, and restoring ABM habitat after tropical storms. Free-roaming cats and the use of exterior rodenticide will be prohibited within the development. There also will be monitoring of the on-site ABM population via fall, winter, and spring trapping surveys conducted quarterly for the life of the permit (50 years). Condominium unit owners will be required to pay a \$201-per-unit annual fee over the next 50 years into a mitigation fund set up by the condominium homeowners' association, and the accumulated fees will be used for predator control, monitoring,

and/or improvement of Alabama beach mouse habitat on the parcel. The Service would require the applicant to ensure that funding for the HCP is available prior to engaging in any activities associated with the project.

Public Availability of Comments

Before including your address, phone number, email address, or other personal identifying information in your comment, be aware that your entire comment—including your personal identifying information—may be made available to the public. While you may request that we withhold your personal identifying information, we cannot guarantee that we will be able to do so.

Our Preliminary Determination

The Service has made a preliminary determination that the applicant's project, including land clearing, infrastructure building, construction of the condominium tower and amenities, landscaping, and the proposed mitigation and minimization measures, would individually and cumulatively have a minor or negligible effect on the Alabama beach mouse and the environment. Therefore, we have preliminarily concluded that the ITP for this project would qualify for categorical exclusion and that the HCP is low effect under our NEPA regulations at 43 CFR 46.205 and 46.210. A low-effect HCP is one that would result in (1) minor or negligible effects on federally listed, proposed, and candidate species and their habitats; (2) minor or negligible effects on other environmental values or resources; and (3) impacts that, when considered together with the impacts of other past, present, and reasonably foreseeable similarly situated projects, would not result in significant cumulative effects to environmental values or resources over time.

Next Steps

The Service will evaluate the application and the comments received to determine whether to issue the requested permit. We will also conduct an intra-Service consultation pursuant to section 7 of the ESA to evaluate the effects of the proposed take on the

species. We will consider all of the preceding in determining whether the permit issuance criteria of section 10(a)(1)(B) of the ESA have been met. If met, the Service will issue ITP number ESPER0031364-0 to Brett Real Estate Robinson Development Company, Inc.

Authority

The Service provides this notice under section 10(c) of the ESA (16 U.S.C. 1531 *et seq.*) and its implementing regulations (50 CFR 17.32) and NEPA (42 U.S.C. 4321 *et seq.*) and its implementing regulations (40 CFR 1506.6 and 43 CFR 46.305).

*William Pearson,
Field Supervisor,
Alabama Ecological Service Field Office.*

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